

5209-S

Sponsor(s): Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Rasmussen, Winsley, Hewitt, T. Sheldon, Morton, Parlette, Stevens, Hale, Brandland, Mulliken, McCaslin and Oke)

Brief Description: Concerning actions for injury or damage against a health care provider based upon professional negligence.

SB 5209-S.E - DIGEST

(AS OF SENATE 2ND READING 3/13/03)

Provides that, in an action or arbitration for damages for injury or death occurring as a result of health care, or arranging for the provision of health care, whether brought under chapter 7.70 RCW, or under RCW 4.20.010, 4.20.020, 4.20.046, 4.20.060, 4.24.010, or 48.43.545(1), or any combination thereof, the total amount of noneconomic damages may not exceed the following: (1) For claims filed on or after the effective date of this act, but before July 1, 2011, the sum of three hundred fifty thousand dollars;

(2) For claims for causes of action filed on or after July 1, 2011, but before July 1, 2017, the sum of five hundred fifty thousand dollars;

(3) For claims for causes of action filed on or after July 1, 2017, the sum of seven hundred fifty thousand dollars.

Provides that an attorney may not contract for or collect a contingency fee for representing a person in connection with an action for damages against a health care provider based upon professional negligence in excess of the following limits: (1) Forty percent of the first fifty thousand dollars recovered;

(2) Thirty-three and one-third percent of the next fifty thousand dollars recovered;

(3) Twenty-five percent of the next five hundred thousand dollars recovered;

(4) Fifteen percent of any amount in which the recovery exceeds six hundred thousand dollars.

Provides that, in no event may an action be commenced more than three years after the act or omission alleged to have caused the injury or condition except: (1) Upon proof of fraud, intentional concealment, or the presence of a foreign body not intended to have a therapeutic or diagnostic purpose or effect, in which case the patient or the patient's representative has one year from the date the patient or the patient's representative or custodial parent or guardian has actual knowledge of the act of fraud or concealment or of the presence of the foreign body in which to commence a civil action for damages.

(2) In the case of a minor, for any period during minority, but only for such period during minority in which the minor's custodial parent or guardian and the defendant or the defendant's insurer have committed fraud or collusion in the failure to bring an action on behalf of the minor.

(3) In the case of a minor under the full age of six years, in

which case the action on behalf of the minor must be commenced within three years or prior to the minor's eighth birthday, whichever provides a longer period.